



Department of Defense

DIRECTIVE

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ASD(P&L)

SUBJECT: DoD Policy for Establishing and Implementing Environmental Standards
at Overseas Installations

References:

- (a) Executive Order 12344, "Naval Nuclear Propulsion Program," February 1, 1982
- (b) Public Law 98-525, "Department of Defense Authorization Act of 1985," October 19, 1984
- (c) Section 165 of title 10, United States Code
- (d) Public Law 89-487, "Administrative Procedures Act," July 4, 1966
- (e) Public Law 87-258, "Federal Tort Claims Act," September 21, 1961
- (f) Public Law 91-190, "National Environmental Policy Act of 1969," January 1, 1970, as amended (42 U.S.C. 4321 et seq.)

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A. PURPOSE

This Directive:

1. Establishes policy, assigns responsibilities, and prescribes procedures for establishing the implementing environmental guidance and standards to ensure environmental protection at DoD installations and facilities in foreign countries.
2. Provides for designation of DoD Executive Agents in accordance with paragraphs D.1.b. below.

B. APPLICABILITY AND SCOPE

This Directive:

1. Applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Unified and Specified Commands, and the Defense Agencies (hereafter referred to collectively as "the DoD Components").
2. Applies to the operations of the DoD Components at installations and facilities outside the territory of the United States.

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3. Does not apply to the operations of U.S. Naval vessels or U.S. military aircraft, which shall be operated in accordance with other DoD policies and Directives and applicable international agreements.

4. Does not apply to facilities and activities covered under E.O. 12344 (reference (a)) and conducted pursuant to 42 U.S.C. 7158 (reference (b)).

5. Does not apply to the determination or conduct of remedial or cleanup actions to correct environmental problems caused by the Department of Defense's past activities. Such actions shall be determined and conducted in accordance with applicable international agreements and U.S. Government policy.

C. POLICY

It is DoD policy that:

1. The Department of Defense shall establish and maintain a baseline guidance document for the protection of the environment at DoD installations and facilities outside U.S. territory.

a. That guidance shall include management practices and procedures designed to protect the environment, and shall consider generally accepted environmental standards for similar installations, facilities, and operations in the United States and requirements of U.S. law that have extraterritorial application.

b. Unless inconsistent with applicable host-nation law, base rights and/or status of forces agreements (SOFA), or other international agreement, or practices established pursuant to such agreements, the baseline guidance shall be applied by the DoD Components stationed in foreign countries when host-nation environmental standards do not exist, are not applicable, or provide less protection to human health and the natural environment than the baseline guidance.

2. The DoD Executive Agent for a host nation, designated in accordance with subsection D.1.b., below, shall:

a. Be appointed by the Assistant Secretary of Defense (Production and Logistics) (ASD(P&L)), in coordination with the Secretaries of the Military Departments and the Chairman of the Joint Chiefs of Staff, as appropriate.

b. Identify host-nation national environmental standards, including those specifically delegated to regional or local governments for implementation, and determine their applicability to DoD operations at installations and facilities in that country. In determining the applicability of particular host-nation environmental standards, the DoD Executive Agent shall consider host-nation law, base rights

agreements and/or the SOFAs, and other relevant international agreements and principles of customary international law. The Executive Agent then shall consider the extent to which the host-nation environmental standards are adequately defined and generally in effect or enforced against host-government and private sector activities and shall also consider whether responsibility for construction, maintenance, and operation of the facilities rests with the United States or the host nation.

c. Evaluate and determine whether the applicable host-nation standard or the DoD baseline guidance is the governing standard for a particular environmental medium or program.

d. Issue the final governing standard in consultation with the U.S. Diplomatic Mission and the geographic Unified Command and the appropriate in-country or theater representatives of the other DoD Components operating in the country.

e. Revalidate the governing standard on a periodic basis.

3. On final development and distribution by the DoD Executive Agent of the governing environmental standards applicable to the DoD operations at installations and facilities in that country, the DoD Components conducting such operations are responsible for complying with those standards.

4. The DoD Components should ensure that wastes generated by their operations and considered hazardous under either U.S. law or host-nation standards are not disposed of in the host nation, unless the disposal complies with the baseline guidance established under subsection C.1., above, and is in accordance with any applicable international agreement, or has otherwise received explicit or implicit concurrence of the appropriate host-nation authorities.

a. When those conditions cannot be met, the hazardous waste shall be disposed of in the United States or in other foreign territory where the applicable conditions can be met, unless other disposal arrangements are approved by the Department of Defense.

b. The determination of whether particular DoD-generated hazardous waste may be disposed of in a host nation shall be made by the DoD Executive Agent, in coordination with the Director of the Defense Logistics Agency (DLA), other relevant DoD Components, and the Chief of the U.S. Diplomatic Mission.

5. The DoD Executive Agent shall consult with host-nation authorities on environmental issues, as required to maintain effective cooperation on environmental matters.

6. The DoD Executive Agent shall also consult with the Chief of the U.S. Diplomatic Mission in the host nation and the geographic Unified Command on significant aspects of DoD environmental policy in that country.

D. RESPONSIBILITIES

1. The Assistant Secretary of Defense (Production and Logistics), in coordination with the Chairman of the Joint Chiefs of Staff and the Under Secretary of Defense for Policy, shall:

a. Coordinate DoD environmental policy for overseas installations with the Department of State, DoD Components, and other Federal agencies, as appropriate.

b. After receiving the recommendations of the Secretaries of the Military Departments and the Chairman of the Joint Chiefs of Staff: (1) designate one of the Secretaries of the Military Departments, the appropriate Commander of a Unified Command, or the appropriate Subordinate Unified Command as the DoD Executive Agent for environmental matters in each foreign country where DoD operations are conducted at installations or facilities; and (2) designate a Secretary of a Military Department who shall have lead responsibility for development and maintenance of the DoD environmental baseline guidance required by subsection C.1., above.

2. The Heads of the DoD Components shall ensure that their operations at installations and facilities in foreign countries, including their administration and support under 10 U.S.C. 165 (reference (c)) of forces assigned to the Commanders in Chief, comply with the governing environmental standards determined by the DoD Executive Agents.

a. If compliance with those standards at particular installations or facilities would seriously impair their operations, adversely affect relations with the host nation, or require substantial expenditure of funds not available for such purpose, a DoD Component may request the DoD Executive Agent to waive or authorize deviation from the particular standards, guidelines, installations, and facilities to the extent permitted by law, or process such a request through the ASD(P&L) for approval by a senior official to the extent permitted by law.

b. For such a request, the DoD Executive Agent shall consult with the relevant DoD Components and the Commanders of the Unified Command with geographic responsibility. Where the waiver or deviation is to a host-nation standard, the DoD Executive Agent shall consult through the appropriate U.S. Diplomatic Mission with the responsible host-nation authority.

c. The DoD Executive Agents shall maintain written record of all waivers and deviations granted. Pending action by the DoD Executive Agent, the Commanders

of the Unified Commands may, consistent with the applicable international agreements and other law, authorize temporary emergency waivers and deviations in countries in their geographic area when they determine that such a waiver or deviation is essential to the accomplishment of an operational mission directed by the National Command Authorities.

3. Planning, programming, and budgeting of funds and other resources required for compliance with this Directive shall be accomplished in accordance with established DoD procedures. This Directive does not require or authorize the DoD Components to expend funds or use other resources to meet requirements that are the responsibility of host nations, as stipulated in the SOFAs or in other U.S. and host-nation agreements.

E. PROCEDURES

1. The ASD(P&L) may issue such instructions as may be necessary to implement this Directive.

2. This Directive is not intended to create rights or obligations enforceable against the Department of Defense under Pub.L.Nos. 89-487(1966), 87-258(1961), and 91-190(1970), (references (d), (e), and (f)); and United States pollution control statutes and regulations, or similar statutes and regulations. This Directive is not intended to alter or affect policies in any established DoD Directive or Instruction, except as specified, stated, and referenced.

F. EFFECTIVE DATE

This Directive is effective immediately.

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Security Clearance	Approved
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